



IFW AF/1651/8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appl. No. : 09/896,853  
Applicant : Weuthen et al.  
Filed : June 29, 2001  
TC/A.U. : 1651  
Examiner : Brian P. Mruk

Confirmation Number: 9048

Docket No. : C 2213 PCT/US  
Customer No.: 23657

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 22, 2004.

April 22, 2004  
Date

Marlene Capreri  
Signature of certifier

Marlene Capreri  
Typed or printed name of certifier

APPEAL BRIEF TRANSMITTAL

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 222313-1450

Sir:

Appellants' brief, in triplicate, is transmitted herewith in accordance with 37 CFR 1.192.

Please charge the required fee of \$330.00 to our Deposit Account No. 50-1177. This paper is enclosed in triplicate. Order No. 04-0198.

The Commissioner is hereby authorized to charge any deficiency in the required fee or to credit any overpayment to Deposit Account 50-1177.

Respectfully submitted,

Cognis Corporation  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant : Weuthen et al. Confirmation No.: 9048  
Appl. No. : 09/896,853  
Filed : 06/29/2001  
Title : LIQUID DETERGENTS  
  
Grp./A.U. : 1751  
Examiner : Brian P. Mruk  
  
Docket No. : C 2213 PCT/US  
Customer No.: 23657

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April 22, 2004      Marlene Capreri      Marlene Capreri  
Date                      Signature of certifier      Typed or printed name of certifier

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**BRIEF ON APPEAL UNDER 37 C.F.R. 1.192**

Sir:

**REAL PARTY IN INTEREST**

The real party in interest is Cognis Deutschland GmbH & Co. KG,  
Henkelstrasse 67, 40589 Duesseldorf, Germany.

**RELATED APPEALS AND INTERFERENCES**

None.

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01 FC:1402 330.00 DA

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Grp./A. U.: 1751

#### STATUS OF CLAIMS

Claims 11-23 are the subject of this appeal.

#### STATUS OF AMENDMENTS

Amendments were made, but not entered, after final rejection.

#### SUMMARY OF THE INVENTION

Briefly stated, the present invention is directed to processes for enhancing the cleaning performance of aqueous laundry detergents by adding hydroxy mixed ethers thereto, and cleaning textiles with aqueous laundry detergents containing said hydroxy mixed ethers. See page 2, line 8, to page 4, line 5.

#### ISSUES

Whether claims 11-22 are anticipated under 35 U.S.C. § 102(b) by Pruehs et al. (US 4,898,621).

Whether claims 11-23 are anticipated under 35 U.S.C. § 102(b) by Schmid et al. (DE 19738866).

#### GROUPING OF THE CLAIMS

The claims stand and fall together.

#### ARGUMENT

**Pruehs '621 fails to anticipate the claimed invention on the grounds that it fails to disclose each and every element thereof.**

Appellant would first like to note that it is very well settled that a factual determination of anticipation requires the disclosure, in a single reference, of each and every element of the claimed invention, and an Examiner must identify wherein each and every facet of the claimed invention is disclosed in the applied reference. See, In re Levy, 17 USPQ2d 1561 (Bd. Pat. App. & Inter. 1990).

Appellant respectfully submits that the Pruehs reference fails to anticipate the claimed invention on the grounds that it fails to disclose the addition of a hydroxy mixed ether to an **aqueous laundry detergent**. Nowhere within the four corners of the Pruehs reference is an aqueous laundry detergent disclosed. As a result, since this element of the claimed invention is not disclosed by Pruehs, it cannot serve to anticipate the present invention.

**Schmid '866 fails to anticipate the claimed invention on the grounds that it fails to disclose each and every element thereof.**

As was noted above, a finding of anticipation requires the disclosure, in a single reference, of each and every element of a claimed invention. See, In re Levy, supra.

Once again, with respect to the Schmid reference, Appellant respectfully submits that the Examiner has failed to establish where, in the Schmid reference, it is disclosed to use the claimed hydroxy mixed ethers in combination with an **aqueous laundry detergent** in order to improve its cleaning effectiveness, along with the subsequent use of said improved aqueous laundry detergent to clean textiles. While the phrase "home laundry" does appear in the Abstract submitted by the Examiner, it is unclear as to what is meant by this phrase. **ALL** of the disclosed uses for the hydroxy mixed ethers in detergents relate to their acting as rinsing aids during the cleaning of hard surfaces, i.e., glass, crockery, metals, plastics, stone floors and lacquered metals. Nowhere within the four corners of the Schmid reference is the combination of hydroxy mixed ethers with an **aqueous laundry detergent** disclosed. As a result, this reference should not be deemed to anticipate the claimed invention.

#### SUMMARY

Pruehs '621 fails to anticipate the claimed invention on the grounds that it fails to disclose each and every element thereof.


Schmid '866 fails to anticipate the claimed invention on the grounds that it fails to disclose each and every element thereof.

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It is requested for the reasons given above, that the Board find for Appellant on all of the issues, and reverse the Examiner's Final Rejections.

Respectfully submitted,

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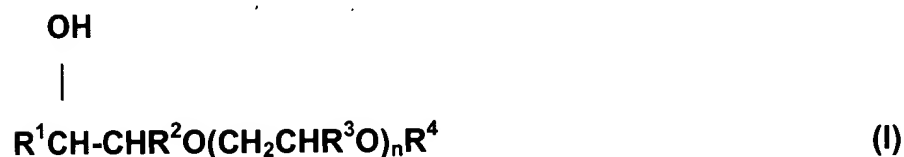
Enc.: Appendix

APPENDIX

CLAIMS ON APPEAL

Claim 11: An aqueous laundry detergent composition comprising a hydroxy mixed ether and from about 25 to 75% by weight of water.

Claim 12: The composition of claim 11 wherein the hydroxy mixed ether corresponds to formula (I):



wherein R<sup>1</sup> is a linear or branched alkyl group containing from about 2 to 18 carbon atoms, R<sup>2</sup> is hydrogen or a linear or branched alkyl group containing from about 2 to 18 carbon atoms, R<sup>3</sup> is hydrogen or methyl, R<sup>4</sup> is a linear or branched alkyl or alkenyl group containing from 1 to about 22 carbon atoms and n is a number from 1 to about 50, and wherein the total number of carbon atoms in the substituents R<sup>1</sup> and R<sup>2</sup> is at least 6.

Claim 13: The composition of claim 11 wherein the hydroxy mixed ether is present in the composition in an amount of from about 1 to 60% by weight, based on the weight of the composition.

Claim 14: The composition of claim 11 wherein the hydroxy mixed ether is present in the composition in an amount of from about 10 to 15% by weight, based on the weight of the composition.

Claim 15: The composition of claim 11 further comprising a co-surfactant component selected from the group consisting of an anionic surfactant, a nonionic surfactant, a

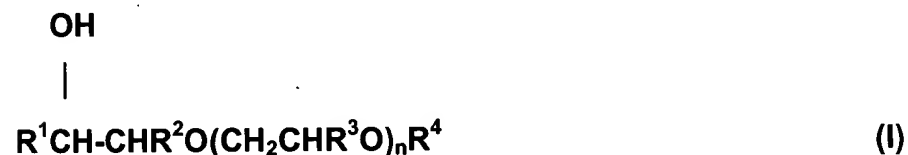
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cationic surfactant, an amphoteric surfactant, a zwitterionic surfactant, and mixtures thereof.

Claim 16: The composition of claim 15 wherein the co-surfactant component is present in the composition in an amount of from about 1 to 40% by weight, based on the weight of the composition.

Claim 17: A process for enhancing cleaning performance of an aqueous laundry detergent composition comprising adding a hydroxy mixed ether to the composition.

Claim 18 (previously presented) The process of claim 17 wherein the hydroxy mixed ether corresponds to formula (I):



wherein  $\text{R}^1$  is a linear or branched alkyl group containing from about 2 to 18 carbon atoms,  $\text{R}^2$  is hydrogen or a linear or branched alkyl group containing from about 2 to 18 carbon atoms,  $\text{R}^3$  is hydrogen or methyl,  $\text{R}^4$  is a linear or branched alkyl or alkenyl group containing from 1 to about 22 carbon atoms and  $n$  is a number from 1 to about 50, and wherein the total number of carbon atoms in the substituents  $\text{R}^1$  and  $\text{R}^2$  is at least 6.

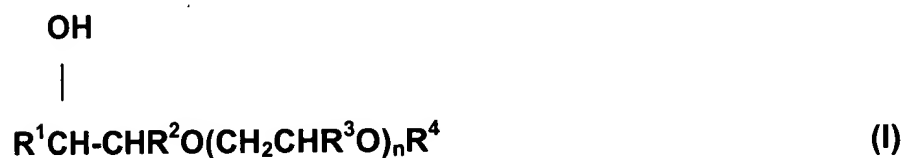
Claim 19: The process of claim 17 wherein the hydroxy mixed ether is present in the composition in an amount of from about 1 to 60% by weight, based on the weight of the composition.

Claim 20: The process of claim 17 wherein the hydroxy mixed ether is present in the composition in an amount of from about 10 to 15% by weight, based on the weight of the composition.

Claim 21: The process of claim 17 wherein the composition further comprises a co-surfactant component selected from the group consisting of an anionic surfactant, a nonionic surfactant, a cationic surfactant, an amphoteric surfactant, a zwitterionic surfactant, and mixtures thereof.

Claim 22: The process of claim 21 wherein the co-surfactant component is present in the composition in an amount of from about 1 to 40% by weight, based on the weight of the composition.

Claim 23: A process for cleaning textiles comprising contacting the textiles with an aqueous laundry detergent containing a hydroxy mixed ether corresponding to formula (I):



wherein R<sup>1</sup> is a linear or branched alkyl group containing from about 2 to 18 carbon atoms, R<sup>2</sup> is hydrogen or a linear or branched alkyl group containing from about 2 to 18 carbon atoms, R<sup>3</sup> is hydrogen or methyl, R<sup>4</sup> is a linear or branched alkyl or alkenyl group containing from 1 to about 22 carbon atoms and n is a number from 1 to about 50, and wherein the total number of carbon atoms in the substituents R<sup>1</sup> and R<sup>2</sup> is at least 6.